

REMARKS

Claims 1 and 4-11 are all the claims pending in the present application.

In summary, the Examiner has withdrawn this application from Appeal because the Examiner apparently found the arguments set forth in the previously filed Appeal Brief to be persuasive.

In the current Office Action, the Examiner however applies new references to allegedly support new rejections.

Specifically, claims 1 and 6-11 are rejected under 35 U.S.C. § 102(b) as allegedly being anticipated by Parolari (EP 1 255 368). Claims 4 and 5 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Parolari in view of Leitch et al. (US Patent 5,546,411).

The new primary reference Parolari is directed to a method to perform link adaptation at the radio interfaces of an enhanced packet data cellular network handling several Modulation and Coding Schemes (MCS) for maximizing data throughput. In a preliminary off-lines step behavior in terms of net throughput of the various available MCSs is simulated for different C/I conditions. From the simulation two sets of tables are obtained, each table including upgrade and downgrade thresholds expressed in terms of Block Error Rate (BLER). Thresholds correspond to switching points from an MCS to the two available MCSs having the immediate less or more protection. The two sets of tables are referred to higher or lower diversity RF environments and are further specialized for taking into account EG-PRS type II hybrid ARQ, namely Incremental Redundant (IR). During transmission the transmitted blocks are checked for FEC and the results are sent to the network. The network continuously updates BLER using exponential smoothing. In order to achieve the correct time response, in spite of whether the RLC blocks can be received or not, a reliability filter is provided whose output is used to decide

the weight between the new and old measurements to make the BLER Filter impulse response exponentially decreasing with time. The IR efficiency is tested for each incoming block and an indicative variable IR status is filtered using the same approach used for BLER. Each actual threshold of BLER to be used in link adaptation is obtained by a linear interpolation between the tabulated threshold without IR and with perfect IR, both weighed with filtered IR status. Filtered BLER is then compared with said interpolated thresholds for testing the incoming of a MCS switching condition. Power control pursues the goal of maintaining constant QoS peak throughout per time slot. *See Abstract of Parolari*

The secondary reference Leitch is directed to a method and apparatus which adaptively selects a communication strategy for communicating a message in a selective call radio communication system including a fixed portion (100) and a portable portion (101). The fixed portion (100) transmits (402) an alert signal to the portable portion (101), and awaits (404) an acknowledgment signal including a signal quality estimate from the portable portion (101). The portable portion (101) receives (602) the alert signal, and computes (604, 606) the signal quality estimate therefrom. The portable portion (101) then sends (608) the acknowledgment signal to the fixed portion (100). In response to the acknowledgment signal, the fixed portion (100) selects (407) a transmission strategy in accordance with the signal quality estimate. For compatibility, the transmission strategy requires a matching reception strategy in the portable portion (101). After sending the acknowledgment signal, the portable portion (101) selects (609) the matching reception strategy in accordance with the signal quality estimate sent in the acknowledgment signal without requiring further communication with the fixed portion (100). *See Abstract of Leitch.*

§102(b) Rejections - Claims 1 and 6-11

Claims 1 and 6-11 are rejected as being anticipated based on the reasons set forth on pages 3 and 4 of the Office Action.

Applicant traverses these rejections at least based on the following reasons.

With respect to independent claim 10, the Examiner cites page 7, lines 24-42 of Parolari as allegedly disclosing or suggesting the feature, “a radio link control (RLC) transmitter which receives acknowledgement/non-acknowledgement (ACK/NACK) messages transmitted by an RLC receiver, said messages comprising a start sequence number (SSN) and a received block bitmap (RRB)” as recited in claim 10. Based on the Examiner's explanation on page 3, it appears that the Examiner reads the claimed acknowledgment/non-acknowledgment messages, which comprise a start sequence number (SSN) and a received block bit map (RRB) on the RLC data blocks in Parolari. However, Parolari only discloses that correctly received RLC data blocks are acknowledged or not acknowledged via ACK/NACK messages. The RLC data blocks of Parolari clearly do not correspond to the claimed ACK/NACK messages. Thus, the premise upon which the Examiner's rationale is based is unsupportable.

At least based on the foregoing, Applicant submits that Parolari does not anticipate claim 10.

Applicant submits that Parolari does not anticipate claim 1 at least based on reasons similar to those set forth above with respect to claim 10.

Applicant submits that dependent claims 6-9 and 11 are patentable at least by virtue of their respective dependencies from independent claims 1 and 10.

§103 Rejection

Applicant submits that claims 4 and 5 are patentable at least by virtue of their dependencies from independent claim 1. Leitch does not make up for deficiencies of Parolari.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

Respectfully submitted,

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